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September 21, 2010

The Honorable Robert M. Levy
United States Magistrate Judge
United States District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, NY 11201

Re: Fileccia v. City of New York, Steven Demizio, et al.
CV10-0889(ARR)(RML)

Dear Magistrate Levy:

On behalf of the defendant Steven DeMizio in the above referenced action, I submit this letter to supplement the letter of July 28, 2010 to the Court, and to confirm the representations made to the Court today. My office previously notified this Court, and the plaintiffs, that Mr. DeMizio would be moving to dismiss the causes of action arising against the defendant:

- Pursuant to Rule 12 that the complaint failed to state a cause of action against the defendant upon which relief may be granted.
- Requesting relief pursuant to Rule 11 on the grounds that the action against the defendant is frivolous.

The defendant supplements that letter to notify the Court, and the plaintiffs, that he will also allege that the causes of action alleged against the defendant were not commenced timely and therefore should be dismissed.

Respectfully submitted,

/s/

HELBOCK NAPPA & GALLUCCI, LLP.

By: Robert J Helbock

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